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Freedom of Information Act
Request

Fax

To: Central Intelligence Agency From:
Fax: 703-613-3007 Date: MAY 16 2002
Phone: Pages:

☒ Urgent ☐ For Review ☐ Please Comment ☒ Please Reply

Comments: If you do not receive all pages, please call 202-646-5172.



Judicial Watch

Because no one is above the law!

May 16, 2002

VIA CERTIFIED MAIL AND FAX

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National Security Council
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Washington, DC 20504

Re: Freedom of Information Act Request.

Dear Sir/Madam:

Pursuant to the Freedom of Information Act (hereinafter, "FOIA"), 5 U.S.C. 552, and its

regulations, we hereby request from the Executive Office of the President (EOP), Office of Administration (OA), National Security Agency (NSA), National Security Council (NSC), the Central Intelligence Agency (CIA) Federal Aviation Administration (FAA) and the Federal Bureau of Investigation (FBI) all correspondence, memoranda, documents, reports, records, statements, audits, lists of names, applications, diskettes, letters, expense logs and receipts, calendar or diary logs, facsimile logs, telephone records, call sheets, tape recordings, video recordings, notes, examinations, opinions, folders, files, books, manuals, pamphlets, forms, drawings, charts, photographs, electronic mail, and other documents and things, that refer or relate to the following in any way:

- 1) FBI case notes which describe alleged 9-11 hijacker Zacarias Moussaoui as "the type of person who was capable of flying an aircraft into the World Trade Center".¹
- 2) A "President's Daily Brief" which mentioned the possibility of terrorists, including but not limited to, Osama Bin Laden and/or Al-Qaeda, hijacking planes.
- 3) A Phoenix Arizona FBI agent's warning to his superiors, last summer (2001) that Osama Bin Laden might be sending students to U.S. flight schools.
- 4) A memorandum from a Phoenix Arizona FBI agent regarding efforts by terrorists to place students in American aviation schools.
- 5) Analysis of the memorandum from the Phoenix agent, done in FBI headquarters in Washington DC and/or any other FBI office or field office.
- 6) All communication between President George W. Bush and/or Condoleezza Rice and/or Secretary of State Colin Powell and/or CIA director George Tenet and/or Secretary of Defense Donald Rumsfeld and/or FBI Director Robert Mueller and/or Attorney General John Ashcroft regarding the Phoenix memo and/or efforts by Osama Bin Laden to place students in American aviation schools.
- 7) The enrollment of Zacarias Moussaoui in a Minnesota flight school.
- 8) Plans by Zacarias Moussaoui and/or Osama Bin Laden and/or Al-Qaeda and/or any terrorist group to hijack airplanes.
- 9) Plans by Zacarias Moussaoui and/or Osama Bin Laden and/or Al-Qaeda and/or any

¹ See David Martin. "What Bush Knew Before Sept. 11," *CBS News*. May 16, 2002; Flight School Memo Named Bin Laden," *CBS News*. May 15, 2002; David Johnston. "Pre-Attack Memo Cited Bin Laden," *The New York Times*. May 15, 2002. A1-5.

terrorist group to fly airplanes into the World Trade Center.

10) New analytical units within the F.B.I., staffed with new personnel, as a result of the Phoenix FBI memorandum.

11) The decision to create the "Office of Intelligence" within the FBI.

12) An alert(s) issued to Government agencies regarding the possible threat of Osama Bin Laden and/or Al-Qaeda and/or any terrorist group hijacking airplanes, between February 1, 2001 to October 31, 2001.

13) The decision not to make the alert(s) public.

14) The decision not to inform the public about the threat of Osama Bin Laden and/or Al-Qaeda and/or any terrorist group hijacking airplanes.

Thank you for your expected cooperation in responding to our request in a timely manner, which should be within 10 working days, as required under 32 C.F.R. § 1900.34, 28 § CFR 16.3 (d)(ii)(iv)(3), and 5 U.S.C. § 552 (a)(6)(E)(ii)(I), because time is of the essence. The American public deserves full disclosure of government foreknowledge of the September 11 2001 terror attacks on America. Judicial Watch, through a variety of means and media detailed below and consistent with its legal and public education mission will rapidly and efficiently disseminate the information obtained under FOIA to the American people. In order to accomplish these aims, it is critical that the American people have this request answered in a timely manner.

Pursuant to the FOIA, if any portions of the requested documents are claimed to be privileged, those portions which are not claimed to be privileged should be provided to the undersigned. This should be done prior to the conclusion of the statutory 20-day period for response. In addition, under the FOIA there is an absolute requirement to produce those segregable portions of documents which are not claimed to be privileged, as well as a list ("Vaughn Index") that indicates by date, author, general subject matter, and claims of privilege(s) those documents, or portions thereof, which have been withheld or not provided. Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir 1973), cert. denied, 415 U.S. 977 (1974); Iglesias v. Central Intelligence Agency, 525 F. Supp. 547 (D.C. 1981); see generally LaRocca v. State Farm Mut. Auto. Ins. Co., 47 F.R.D. 278 (W.D. Pa. 1985).

We note that President Clinton instructed agencies in October, 1993, to ensure compliance with both the spirit as well as the letter of the Act. See President Clinton's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Summer/Fall 1993, at 3. In addition, Attorney General Ashcroft issued a FOIA Memorandum on October, 12, 1993, which *inter alia* states "the Department of Justice and this Administration are committed to full compliance with the Freedom of Information Act... It is only through a well-informed citizenry that the leaders of our nation remain accountable to the governed and the American people can be assured that neither fraud nor government waste is concealed." and orders "a presumption of disclosure." See Attorney General Ashcroft's FOIA Memorandum, U.S. Department of Justice, FOIA Update, Fall 2000, at p. 1.

Judicial Watch is entitled to a public interest fee waiver for this request. At 5 U.S.C. § 552 (a) (4) (A) (iii), the FOIA sets forth a two prong test to determine whether a fee waiver is appropriate. First, the disclosure must be in the public interest by contributing significantly to the public's understanding of the operations of the government. *Schrecker v. Department of Justice*, 970 F. Supp. 49, 50 (D.D.C. 1997); *Fitzgibbon v. Agency for International Development*, 724 F. Supp. 1048, 1050 (D.D.C. 1989); *Larson v. Central Intelligence Agency*, 843 F.2d 1481, 1483 (D.C. Cir. 1988). Second, the disclosure must not be primarily in the commercial interest of the requester. *Schrecker*, 970 F. Supp. at 50; *Fitzgibbon*, 724 F.2d at 1050; *Larson*, 843 F.2d at 483.

Judicial Watch, Inc. is a not-for-profit, non-partisan, tax-exempt organization, organized under Section 501 (c)(3) of the Internal Revenue Service Code, which, as a public interest law firm, specializes in, among other things, deterring, monitoring, uncovering, and addressing public corruption in government.

Judicial Watch, Inc. has no commercial purpose as a 501 (c)(3) not-for-profit organization. It was organized to improve the ethical and legal standards in government, accountability of government officials to the rule of law, and public understanding of government operations and activities.

Judicial Watch, Inc. regularly requests materials under the Freedom of Information Act ("FOIA") from a number of federal agencies relating to a variety of topics of public concern, then disseminates this information through a variety of media.

Judicial Watch is a member of the media.² One of its main purposes is to disseminate to the public information that exposes government activities that are contrary to the law. Judicial Watch, Inc. uses several mechanisms for the dissemination of the information it acquires which ensures that the information will be quickly available to the public. Judicial Watch maintains an Internet site, www.JudicialWatch.org on which the public can view and inspect, among other things, FOIA materials, press releases, responsive documents, deposition transcripts and court opinions. This website is viewed by over 20,000 people per day on average, and on several occasions, has logged up to 1,000,000 visitors in a single day. Judicial Watch, Inc.'s Chairman, President, and other employees of Judicial Watch Inc. frequently appear on nationally broadcast television and radio programs. Judicial Watch is also a member of the National Religious Broadcast Association and is routinely

² See Memorandum and Order, *Judicial Watch, Inc. v. U.S. Department of Justice*, Civil Action No. 00-1396 (JR), November 16, 2000.

issued press credentials by national conventions.

Judicial Watch, Inc. produces live radio programs. "The Judicial Watch Report" airs nationally once per week on 43 radio stations and the Internet. A separate, hour long, live Spanish language "Judicial Watch Report" airs twice weekly, since September 2001, from Miami, Florida on WQBA - 1140 AM. On October 29, 2001, Judicial Watch also began broadcasting a two hour daily edition of the radio program "The Judicial Watch Report" on the USA Radio Network, and on the Internet sites www.USARadio.com and www.JudicialWatch.org.

Judicial Watch also produces and broadcasts a twice weekly television program concerning legal affairs also entitled the "The Judicial Watch Report," which is seen on the Dish Network and the Liberty Network among others. The producer of the Judicial Watch Report is Brian Doherty, formerly the producer for the television programs "The O'Reilly Factor" and "The Drudge Report" on the Fox News Channel.

Judicial Watch also works with other media organizations to publish new stories in the public interest. Concerning its Enron investigation, Judicial Watch received over 60 press contacts on March 26, 2002 alone, and cooperated with other news organizations such as the *New York Times*, *Associated Press*, *Reuters*, *Cox Newspapers*, *United Press International*, *Knight Ridder*, *Chicago Tribune*, *Houston Chronicle* and the *Los Angeles Times*. As another example, recently, as a result of FOIA litigation before this Court in Judicial Watch v.

Department of Health and Human Services, C.A. No. 01-1043 (TPJ), Judicial Watch obtained documents concerning the fundraising practices of Department of Health and Human Services ("DHHS") Director Tommy Thompson, a Republican and former governor of Wisconsin. Judicial Watch analyzed these documents, conducted additional research, and found that Mr. Thompson was using his taxpayer financed office, in part, for fundraising activities on behalf of Republicans and was making his office available to donors with interests before the DHHS. Judicial Watch subsequently shared its analysis, research, and copies of these documents with a reporter from *The Washington Post*, a newspaper that is distributed nationwide, and an article concerning these documents was subsequently published by the *Washington Post*. See Attachment A – Al Kamen, "Photo-Op, Funds-Op, Suit-Op," *The Washington Post*, Nov. 30, 2001, A39.

Judicial Watch also publishes detailed periodic reports. On September 28, 1998, for example, Judicial Watch, Inc. released a publication entitled Interim Report on Crimes and Other Offenses Committed by President Bill Clinton Warranting His Impeachment and Removal from Elected Office. This 145-page report is accompanied by nearly 4,000 pages of supporting documentation, and was crafted, in part, from the raw materials obtained by Judicial Watch, Inc. through responses to its FOIA requests. This is a distinct work and has been widely disseminated to the public. On or around August 10, 1999, Judicial Watch released its Filegate Status Report, which is 136 pages long and is supported by nearly 1000 pages of exhibits. Another recent Judicial Watch publication is The Judicial Watch Florida Recount, an independent, non-partisan analysis of the results of Florida's hotly contested 2000

Presidential election. This document was released on March 22, 2001. Judicial Watch's most recent publication is The Judicial Watch 2002 "State of the Union" Report, Bush Administration Ethics Enforcement: "A Failure of Leadership," published February 1, 2002.

Judicial Watch also publishes a monthly newsletter, which is sent to approximately 225,000 individuals. It also utilizes an E-mail Infonet service which sends out updates of Judicial Watch's activities over the Internet on nearly a daily basis to 17,000 persons. Judicial Watch also produces several press releases each week which are "blast faxed" to hundreds of radio and television stations, as well as newspapers throughout the country.

Judicial Watch, Inc. is conducting an investigation into the September 11th attack. The documents sought in our FOIA request are material to our investigation. Judicial Watch intends to disseminate the responsive documents and information obtained from its investigation and this FOIA request through its daily and weekly radio programs, its television program, Internet website, and its newsletter. Judicial Watch is currently writing a special report on the September 11th attacks that is to be published in the next few weeks. Information sought in this request will be published in Judicial Watch's forthcoming special report.

Judicial Watch also uses the documents and information from FOIA requests in public events such as conferences, seminars and speeches. For example, in October of 2001, Judicial

Watch held its third annual "Ethics in Government Conference" in Miami, Florida. Previous conferences were held in Pasadena, California (1999), and Washington, DC (2000). Judicial Watch, Inc. also intends to make the documents and information obtained from this FOIA request available to researchers, interns, colleges, universities and the media.

In short, Judicial Watch's efforts to expose government corruption make news on almost a daily basis, and it functions, in part, as a member of the media.

Indeed, there is an unequivocal public interest served by revealing the aforementioned documents. The American people should be made aware of, among other things, reports, investigations, decisions, waivers and findings of fact concerning government foreknowledge of the September 11th attack on America. According to the statements by government officials, including White House Press Secretary Ari Fleischer and FBI Director Robert Mueller, the President of the United States was informed, via the "President's Daily Brief," that Osama Bin Laden was plotting to hijack American airplanes, but firmly insist that none in government knew that the planes were to be used as missiles to crash into a building. The President reportedly put government security agencies on alert. The knowledge these officials claim stems from an FBI memo written by a Phoenix based agent. The memo was given too little attention, according to FBI director Robert Mueller, because the FBI lacked adequate analytical capabilities to evaluate it, which has been remedied for the future by the creation of new departments within the Bureau, including the "Office of Intelligence." The American public has a right to know 1) exactly how much knowledge of a potential terrorist attack their Government officials had beforehand, 2) how they responded to a potential terrorism attack based on that knowledge, and 3) what steps have been taken to avert future intelligence and security failures. **Unquestionably this is a breaking news item that is continuing to unfold in the press.** Future government action and/or inaction in response to future foreknowledge of terrorist attacks could cost lives. This request is a "life or limb" issue of the greatest urgency. This disclosure will significantly

contribute to the public understanding of the operations and activities of their government by informing them of how the government handles suspected terrorist attacks. This request is based in part on news reports. See David Martin. "What Bush Knew Before Sept. 11," *CBS News*. May 16, 2002; Flight School Memo Named Bin Laden," *CBS News*. May 15, 2002; David Johnston. "Pre-Attack Memo Cited Bin Laden," *The New York Times*. May 15, 2002. A1-5. Copies of which are enclosed with this request.³

Without question, there is a compelling need for the public to understand how the government responded to prior knowledge of potential airplane hijackings by terrorists, which turned out to be the most deadly attack of terrorism in history. Hence we submit this request.

Clearly, information that exposes government activity that is contrary to the rule of law will contribute significantly to the public's understanding of the operations and activities of government. In fact, according to the *Office of Management and Budget, Freedom of Information Reform Act of 1986 – Uniform Freedom of Information Act Fee Schedule Guidelines*, § 67(g), this is one of the categories of activity which courts have characterized as in the public interest.

Congress has spoken clearly on this subject by amending FOIA so that it can "be liberally construed in favor of waivers for noncommercial requesters." *McClellan Ecological Seepage Situation*, at 1284 (quoting 132 Cong. Rec. S14298 (Sept.30, 1986)). The main purpose of the amendment, according to Senator Leahy, was to prevent gamesmanship on the part of government agencies i.e., to "remove roadblocks and technicalities which have been used by various Federal agencies to deny waivers or reductions of fees under FOIA." *Id.* (quoting 132 Cong. Rec. S16496, October 15, 1986).

³ See David Martin. "What Bush Knew Before Sept. 11," *CBS News*. May 16, 2002; Flight School Memo Named Bin Laden," *CBS News*. May 15, 2002; David Johnston. "Pre-Attack Memo Cited Bin Laden," *The New York Times*. May 15, 2002. A1-5.

We request expeditious handling and immediate release of the requested information in the public interest.

In accordance with 32 C.F.R. § 1900.34 (c), 28 § CFR 16.3 (d)(ii)(iv)(3), and 5 U.S.C. § 552 (a)(6)(E)(ii)(I) we submit this request be granted and expedited because the information is urgently needed for dissemination so that the public may be informed about actual or alleged Federal Government government activity.

In addition, we find a compelling need for the requested information given that a significant part of our operation involves disseminating information as a legitimate news source. Thus, we assert that the request concerns matters of widespread and exceptional media interests in which there exist possible questions about the government's integrity (to include senior government officials) which effect public confidence.

Judicial Watch certifies that in accordance with citation 32 C.F.R. § 1900.34 (c), 28 § CFR 16.3 (d)(ii)(iv)(3), and 5 U.S.C. § 552 (a)(6)(E)(ii)(I) we have a compelling need for information sought herein.

Release of the information will promote confidence in our Constitutional Republic, and contribute to furthering the integrity of the American national government by deterring and/or sanctioning corrupt activities. The failure to do so will likely result in the further compromise of important interests of the American people.

Sincerely,

JUDICIAL WATCH, INC.





Flight School Memo Named Bin Laden

NEW YORK, May 15, 2002

A memo by an FBI agent last summer urged the bureau's headquarters to investigate Middle Eastern men enrolled in American flight schools and named Osama bin Laden, suggesting followers could use the schools for terror operations, the New York Times reported Wednesday.

The memorandum said bin Laden's groups might be sending students to the flight schools to place Islamic militants in the civil aviation industry around the world, the report added, citing government officials.

When four hijacked airliners plowed into the World Trade Center, the Pentagon and a field in Pennsylvania on Sept. 11 of last year, Middle Eastern men trained at U.S. flight schools were at the controls. The attacks killed more than 3,000 people and destroyed the World Trade Center.

The mastermind was later identified as bin Laden.

According to the Times, the memo's existence had been known for months but it was not until recent weeks that lawmakers and congressional staff gained full access to it. The memo's direct reference to bin Laden had not been revealed before by the U.S. government.

"Robert S. Mueller III, who did not become director until two weeks before the attacks, has acknowledged that the bureau gave the memo too little attention. Mr. Mueller has said the bureau lacked adequate analytical capabilities to evaluate it, a failing that he has tried to correct by establishing new analytical units within the FBI and staffing them with new personnel," the Times reported.

The Office of Intelligence within the bureau was formed as a direct result of this memorandum, the newspaper said.

The memorandum was written by an FBI agent in Arizona conducting terrorism investigations of several Middle Eastern men who were attending flight school in the area, according to the Times.

"Several lawmakers who have read the Phoenix memorandum described it as the most significant document to emerge in congressional inquiries into whether the government might have been warned about possible hijackings. Several senators said the letter represented a warning that went unheeded," the Times reported.

In August, an agent speculated in notes, made when investigators sought to explain why Zacarias Moussaoui was enrolled in a Minnesota flight school, that he "might be planning to fly a plane into the World Trade Center," the newspaper said.

Moussaoui, a French citizen, is on trial in Virginia on charges based on the premise that he was to be the 20th hijacker on Sept. 11.

Law enforcement officials told the Times Tuesday "that when the memorandum was received electronically at bureau headquarters in late July, counterterrorism agents reviewed it. But they took no action on its central recommendation, which was to urge the bureau to compile information on the visa applications filled out by foreign students seeking admission to aviation schools."

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a memo to FBI headquarters warning that there were a large number of Arabs seeking pilot, security and airport operations training. The memo pointed to those statistics at one flight school and urged a check of all U.S. flight schools to identify any other students from the Middle East.

The memo also makes a passing reference to bin Laden, speculating that al Qaeda and other such groups could be behind a push for flight training. No evidence, however, was offered to back up that theory.

The FBI failed to make a connection between that warning and the August arrest of Zacarias Moussaoui - a French citizen of Moroccan descent detained in Minnesota after raising suspicions among his instructors at a flight school where he said he wanted to know how to fly, but not how to land or take off.

Moussaoui has emerged as the lone defendant charged in the aftermath of the attacks, which killed more than 3,000 people in New York, Washington and Pennsylvania. He is charged with conspiring with bin Laden and the 19 suicide hijackers to attack Americans.

FBI Director Robert Mueller has said repeatedly that he wishes the FBI had acted more aggressively in addressing the Arizona and Minnesota leads. Mueller has also said that nothing the FBI possessed before Sept. 11 pointed to the plot.

When hijacked airliners plowed into the World Trade Center, the Pentagon and a field in Pennsylvania, Middle Eastern men trained at U.S. flight schools were at the controls.

Earlier this month, Senate Intelligence Committee Chairman Bob Graham complained that the Justice Department and CIA had not provided congressional investigators with adequate access to documents and witnesses for a probe into intelligence failures related to the Sept. 11 attacks.

Graham said through a spokesman Wednesday that the revelations in the FBI memo mark an important discovery in Congress' investigation into why the FBI, CIA and other U.S. agencies failed to learn of and prevent the Sept. 11 plot.

"It represents a failure to connect the dots," says Graham spokesman Paul Anderson. "This was dismissed rather lightly at FBI headquarters."

On Feb. 6, in his first public comments after the Sept. 11 attacks, CIA Director George Tenet told a congressional hearing that the CIA had seen "spectacular threat reporting about massive casualties against the United States" in the spring and summer last year, but there was no specific information.

A U.S. intelligence official, speaking on condition of anonymity, says the CIA had continuously informed policymakers throughout the summer before Sept. 11 that bin Laden and his network might try to harm U.S. interests and discussed a range of possibilities that included hijackings.

"That was among the many things that we talked about all the time as a potential terrorist threat," says the intelligence official. "But when we talked about hijackings, we talked about that in the traditional sense of hijackings, not in the sense of somebody hijacking an aircraft and flying it into a building. We talked about concern about the general noise level about al Qaeda planning and we were trying to figure out what they would do. We never had specifics about time, place, MO (method of operation)."

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What Bush Knew Before Sept. 11

WASHINGTON, May 16, 2002

President Bush was told in the months before the Sept. 11 attacks that Osama bin Laden's terrorist network might hijack U.S. passenger planes - information which prompted the administration to issue an alert to federal agencies - but not the American public.

CBS News National Security Correspondent David Martin says the warning was in a document called the President's Daily Brief, which is considered to be the single most important document that the U.S. intelligence community turns out. The document did not, however, mention the possibility of planes being flown into buildings.

An agent in the FBI's Arizona office did, however, speculate about that, writing in his case notes about Zacarias Moussaoui that Moussaoui seemed like the type of person who was capable of flying an aircraft into the World Trade Center.

It was the observation of an agent taking notes as he thought about his case - an observation whose significance simply did not register at the time.

White House spokesman Ari Fleischer says that while President Bush was told last summer that bin Laden's al Qaeda network might hijack planes, he did not receive information suggesting that airplanes might be used as suicide bombs, as they were on Sept. 11.

Fleischer emphasizes that "until the attack took place, I think it's fair to say that no one envisioned that as a possibility."

The revelation about the president's security briefing comes as House and Senate Intelligence Committee investigators prepare for public hearings beginning next month on whether an intelligence community which spends \$30 billion a year should have been able to provide a more specific warning in advance of Sept. 11.

The New York Times reports that an FBI agent in Arizona warned his superiors last summer that bin Laden might be sending students to U.S. flight schools.

Investigators have since Sept. 11 suspected bin Laden's al Qaeda network of masterminding the terror attacks on America, which killed more than 3,000 people.

"There's been a long-standing awareness in the intelligence community, shared with the president, about the potential for bin Laden to have hijackings," says Fleischer. "The information the president got dealt with hijackings in the traditional sense - not suicide bombers, not using planes as missiles."

According to Fleischer, after the information was presented to President Bush, the administration put domestic agencies on alert in the summer, just months before the Sept. 11 attacks.

That alert was not announced publicly but Fleischer suggests it may have prompted the hijackers to change their tactics.

"The administration, based on hijackings, notified the appropriate agencies and, I think, that's one of the reasons that you saw that the people who committed the 9-11 attacks used box cutters and plastic knives to get around America's system of protecting against hijackings," he said.

Fleischer does not say which agencies were put on alert and what they did in response.

In contrast, he says the Bush administration did go public last summer with a warning about terrorist threats on the Arabian peninsula.

Fleischer's comments followed the New York Times report that an agent at the FBI's Arizona office last July sent

But several lawmakers who have read the Phoenix memorandum described it as the most significant document to emerge in Congressional inquiries into whether the government might have been warned about possible hijackings. Several senators said the letter represented a warning that went unheeded.

The memorandum may not be the only internal document embarrassing to the bureau. In August, an agent speculated in notes, made when investigators sought to explain why Zacarias Moussaoui was enrolled in a Minnesota flight school, that Mr. Moussaoui might be planning to fly a plane into the World Trade Center. Mr. Moussaoui, a French citizen, who was soon arrested on immigration charges, was believed by the United States government to be the intended 20th hijacker on Sept. 11.

F.B.I. officials have said no information available to investigators before Sept. 11 could have prevented the attacks. Even though the Phoenix memorandum referred to Mr. bin Laden's possible use of flight schools, nothing in the letter forecast the Sept. 11 plot. None of the Middle Eastern men who were under investigation in Phoenix had any connection to Al Qaeda or to the Sept. 11 attacks, the officials added.

The bureau explanations have not satisfied some lawmakers. Today, Senator Patrick J. Leahy, Democrat of Vermont and chairman of the Senate Judiciary Committee, wrote to Mr. Mueller, the bureau's director, asking for more information.

Law enforcement officials said today that when the memorandum was received electronically at bureau headquarters in late July, counterterrorism agents reviewed it. But they took no action on its central recommendation, which was to urge the bureau to compile information on the visa applications filled out by foreign students seeking admission to aviation schools.

Several of the Sept. 11 hijackers had studied at flight schools in states like Florida and California. One was Mohamed Atta, who the authorities have concluded was the ringleader of the plot.

Several lawmakers have expressed disbelief that the memorandum failed to set off alarms at F.B.I. headquarters.

Today, however, law enforcement officials said the bureau agents who handled the memorandum were not analysts but investigators who were deeply involved in other high priority cases at the time, including a terror plot uncovered in France and the hunt for a suspect in the October 2000 suicide attack on the Navy destroyer Cole in Yemen. The officials said these agents believed they had little time left to investigate what was regarded at the time as a speculative memorandum from Phoenix.

With hundreds of foreigners in flight schools around the country, officials at bureau headquarters regarded the proposed investigative plan as a "sizable undertaking," one official said. They decided to defer action until they had more time to consider the recommendation.

Instead, bureau officials in Washington referred the memorandum to two field offices. One was the New York office, where Al Qaeda cases had been investigated. But no action was taken before Sept. 11.

In addition, bureau officials have said the Phoenix memorandum had other problems. It was not turned over to an agent in Minneapolis who in August began an investigation of Mr. Moussaoui.

1 of 1 DOCUMENT

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May 15, 2002, Wednesday, Late Edition - Final

SECTION: Section A; Page 1; Column 5; National Desk

LENGTH: 1059 words

HEADLINE: PRE-ATTACK MEMO CITED BIN LADEN

BYLINE: By DAVID JOHNSTON

DATELINE: WASHINGTON, May 14

BODY:

The classified memorandum written by an F.B.I. agent in Phoenix last summer urging bureau headquarters to investigate Middle Eastern men enrolled in American flight schools also cited Osama bin Laden by name and suggested that his followers could use the schools to train for terror operations, government officials said for the first time today.

The memorandum said terrorist groups like Mr. bin Laden's might be sending students to the schools as the first step in what could be a concerted effort to place Islamic militants in the civil aviation industry around the world as pilots, security guards or aircraft-maintenance workers.

The memorandum's existence has been known for months, but few details were available until recent weeks, when some lawmakers and Congressional staff members were allowed to read it. Before today government officials had not revealed that the memorandum included direct references to Mr. bin Laden.

Robert S. Mueller III, who did not become director until two weeks before the attacks, has acknowledged that the bureau gave the memo too little attention. Mr. Mueller has said the bureau lacked adequate analytical capabilities to evaluate it, a failing that he has tried to correct by establishing new analytical units within the F.B.I. and staffing them with new personnel.

One such unit is the Office of Intelligence within the bureau, formed as a direct result of this memorandum. The purpose of the office is assemble and evaluate information related to terrorist threats and to disseminate this information within the bureau or to other federal agencies.

The memorandum was written by an F.B.I. agent in Arizona conducting terrorism investigations of several Middle Eastern men who were attending flight school in the area. People who have read the memorandum said it did not identify anyone by name as a Qaeda follower, did not specify which flight schools should be investigated or explicitly predict the Sept. 11 attacks.

Mr. Moussaoui, who was later charged with conspiring with Mr. bin Laden in the Sept. 11 attacks, represented a puzzling case. Bureau agents believed Mr. Moussaoui might be preparing for a terrorist action but had no evidence that he had broken the law.

Mr. Moussaoui had told the school's instructors that he wanted to train on a flight simulator trip from Heathrow Airport in London to Kennedy Airport in New York.

Based on that information, one agent speculated in an internal meeting last August that Mr. Moussaoui might have intended to crash a plane into the trade center, officials said, confirming a report first published in this week's issue of Newsweek.

Other agents had different theories, involving 747 aircraft, which Mr. Moussaoui wanted to pilot in simulation flights. In a final interview with Mr. Moussaoui, the Minneapolis agent confronted him with the bureau's suspicion that he was preparing for a terrorist operation, but did not ask whether he meant to fly into the trade center towers.

Mr. Moussaoui insisted he had no plans to break the law.

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